

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Pursuant to Assembly Bill 2514 to Consider the Adoption of Procurement Targets for Viable and Cost-Effective Energy Storage Systems.

Rulemaking 10-12-007
(Filed December 16, 2010)

DECISION GRANTING INTERVENOR COMPENSATION TO SIERRA CLUB CALIFORNIA FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-08-016

Claimant: Sierra Club California (Club or Sierra Club)	For contribution to Decision (D.) 12-08-016
Claimed (\$): \$68,837.50	Awarded (\$): \$64,704.75 (reduced 6%)
Assigned Commissioner: Carla J. Peterman	Assigned ALJ: Amy C. Yip-Kikugawa

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Adopted energy storage framework staff proposal for analyzing energy storage needs, concluded Phase 1 and commenced Phase 2.
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B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	As Stated by Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	April 21, 2011	Verified
2. Other Specified Date for NOI:		
3. Date NOI Filed:	May 20, 2011	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 10-12-007	Verified
6. Date of ALJ ruling:	July 5, 2011	Verified
7. Based on another CPUC determination:		
8. Has the Claimant demonstrated customer or customer-related status?		Yes

Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.10-12-007	Verified
10. Date of ALJ ruling:	July 5, 2011	Verified
11. Based on another CPUC determination:		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-08-016	Verified
14. Date of Issuance of Final Decision:	August 6, 2012	Verified
15. File date of compensation request:	October 5, 2012	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
	Sierra Club		Sierra Club is a grassroots environmental organization interested in implementing measures to reduce greenhouse gas emissions and increase reliance on renewable energy sources. The Club’s interest in this proceeding is not related to any business interest. The Club receives funding for environmental advocacy from many sources, including philanthropic donations, member contributions and other sources. The Club has entered into agreements with certain residential rooftop solar installers that will likely result in a small amount of additional funding. However, the Club's involvement in the present proceeding is completely independent and unrelated to those small amounts of funding.

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s description of its contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059):

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
1. The Club was an active participant throughout Phase 1 of this proceeding. The Sierra Club details the substantial contribution it made to D.12-08-016 and the Energy Storage Framework Staff Proposal below:	D.12-08-016 and Attachment A, Energy Storage Framework Staff Proposal (“Framework Proposal”).	Verified

<p>Cost-Effectiveness and Valuing</p> <p>Sierra Club January 31, 2012 Opening Comments on the ALJ's Ruling Seeking Comments on the Initial Staff Proposal:</p> <p>“[W]hatever cost-effectiveness test is developed, it must address the unique characteristics of EES and account for its stacked benefits.” (p. 15)</p> <p>September 16, 2011 Reply Comments to ALJ Ruling</p> <p>“By developing a mechanism that values energy storage, the Commission can assess the cost-effectiveness of energy storage and satisfy its legislative mandate by using this valuation mechanism for the purpose of establishing procurement targets.” (p. 1)</p> <p>“Creating mechanisms for valuing energy storage and the associated payment structures for the various services that storage can provide are also necessary for determining cost effectiveness.” (p. 2)</p>	<p>Decision:</p> <p>“[S]ome parties expressed concern with an application-based approach. Sierra Club believes that an application-based approach would result in a perpetual undervaluing of the multiple benefits of energy storage, since IOUs [investor-owned utilities] would be limited to looking only at specific applications outside the context of the Commission's power to establish a general value for purposes of rate recovery for energy storage. “It further notes: By matching energy storage to one specific application, the multifunctional role of energy storage is limited to a single or preferred task, and the additional functions may be overlooked or lack a market to monetize the value of the additional function.” (p. 8)</p> <p>“Many parties believe that the unique operational aspects of energy storage pose a challenge in recognizing all relevant benefits, as many of these benefits are not part of current calculation methods. Parties argue that as a result, the total benefit of energy storage is significantly underestimated.” (p. 14)</p>	<p>Verified</p>
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<p>“Understanding the grid’s present and future needs for energy storage will inform this analysis and will create inputs for a valuation methodology. Sierra Club advocated in its opening comments that this proceeding should develop information about the locational and operational needs of the grid. Sierra Club suggested that mapping of the transmission and distribution system that identifies the locational benefits of certain energy storage placement would provide important information for assessing the value of specific energy storage assets.” (p. 4)</p> <p>“This proceeding should eliminate the barriers to the widespread adoption of energy storage such as the current inability to value the multiple benefits of energy storage and the lack of a basis for determining cost-effectiveness.” (p. 6)</p> <p>“Sierra Club disagrees with the application-specific approach because it would result in a perpetual undervaluing of the multiple benefits of energy storage, since IOUs would be limited to looking only at specific applications outside of the context of the Commission’s power to establish a general value for purposes of rate recovery for energy storage. A general approach can create a stable market for energy storage, and such certainty can help reduce the cost of clean energy technologies that are in early stages of market adoption.” (p. 7)</p> <p>“By matching energy storage to one specific application, the multifunctional role of energy storage is limited to a single or preferred task, and the</p>	<p>“There is general consensus that development of an evaluation methodology should be included in the second phase of this proceeding... Sierra Club further notes that developing a methodology to value energy storage’s multiple benefits is needed to comply with AB 2514.” (p. 15) (citing Sierra Club September 16 Comments at 1).</p> <p>“Sierra Club also notes [b]y developing a mechanism that values energy storage, the Commission can assess the cost-effectiveness of energy storage.” (p. 15) (citing Sierra Club September 16 Comments at 1).</p> <p>“At the same time however, we agree with Staff and parties that energy storage attributes must be considered in a comprehensive manner to identify opportunities where storage could provide value to the electric system.” (p. 26)</p> <p>“We realize that several parties are concerned that the proposed framework and iterative nature of the analysis approach could delay the implementation of energy storage systems. However, we believe that this concern has been addressed thorough the prioritization of end-uses. This prioritization would allow us to evaluate energy storage opportunities in a manageable manner. We believe that focusing on the end uses, and applying them to specific scenarios will reduce the risk that this potential resource will be undervalued. More importantly, this approach will allow us to identify those relevant situations where storage could be utilized and whether it would be appropriate to set targets to encourage the cost-effective deployment of energy storage systems.” (p. 29)</p>	
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<p>additional functions may be overlooked or lack a market to monetize the value of the additional function.” (p. 8)</p>	<p>Framework Staff proposal:</p> <p>“Many parties identified uncertainty around cost-effectiveness evaluation methods as a major barrier to adoption of storage. In particular, they state that the unique operational aspects of energy storage pose a challenge in recognizing all relevant benefits and quantifying them. Parties express a concern that some of the benefits, particularly environmental, are not part of the current calculation methods and the total benefits of energy storage, therefore, end up being significantly underestimated.” (p. 8)</p> <p>“Phase 2 of this proceeding will consider the appropriate methodology for evaluating costs and benefits of energy storage.” (p. 8)</p> <p>[Although Sierra Club California’s proposals were not accepted in full, elements from Sierra Club’s discussion in Comments were addressed by the Commission.]</p>	<p>See D.12-08-016 at 14.</p> <p>See D.12-08-016 at 29.</p>
<p>Rate Structures and Incentives</p> <p>August 29, 2011 Comments on ALJ Ruling:</p> <p>“Of those issues, rate design is the biggest and most immediate barrier, since storage will be built only if it is paid for. Without a mechanism for fitting energy storage into the existing regulatory and cost recovery structure, there will be regulatory barriers and inadequate methods for valuing and paying for energy storage.” (p. 3)</p>	<p>“Some parties advocate changes in retail rate design that would include time-variant rates. Sierra Club identifies rate design as the biggest and most immediate barrier, since storage will only be built if it is paid for.” (p. 19) (citing Sierra Club August 29 comments at 3).</p> <p>Framework Proposal:</p> <p>“[W]ithout a clear way to fit energy storage into the existing regulatory and cost recovery structure, it will be difficult to both value and pay for energy storage.”</p>	<p>Verified</p> <p>Verified</p>

<p>September 16, 2011 Reply Comments to ALJ:</p> <p>“As Sierra Club explained in its opening comments, the lack of a rate design for energy storage is also a major barrier to its implementation.” (p. 1)</p>	<p>(citing Sierra Club August 29, 2011 comments at 3.) (p. 9)</p> <p>“This proceeding should consider how storage applications across different grid functions can inform cost recovery policy that falls within the Commission’s ratemaking jurisdiction (distribution service and energy commodity procurement), and if appropriate, consider revising the regulatory and cost recovery guidelines to facilitate the use of storage assets for multiple applications where feasible to maximize the benefits of storage.” (p. 9)</p>	<p>Verified</p>
<p>Discussion of benefits and need for energy storage</p> <p>August 29, 2011 Comments on ALJ Ruling:</p> <p>“Energy storage should be considered as a superior alternative to supporting the grid with natural gas plants because it can better achieve California’s energy policy goals of integrating renewables into the grid.” (p. 3)</p> <p>“Energy storage systems possess attributes that can reduce the use and/or avoid the building of peaker power plants while simultaneously providing other essential services to the grid such as voltage regulation and the equivalent of spinning reserve.” (p. 4)</p> <p>“Curtailling intermittent renewables wastes the ratepayers’ investment in renewable energy, and it provides a disincentive to renewable energy developers to build projects.” (p. 5)</p> <p>“Rather than backing up this new generation only with natural gas, the Commission should maximize the environmental benefits of the distributed generation goals and policies by</p>	<p>Decision:</p> <p>Lack of Cohesive Regulatory Framework – “Sierra Club echoes this conclusion, noting the current regulatory framework for energy policy in California does not recognize the benefits of energy storage.” (p. 12)</p> <p>“These scenarios are intended to align with existing state and Commission policy objectives particularly those related to increasing renewables and distributed generation, reducing greenhouse gas emissions, limiting peak growth and modernizing the grid.” (p. 25)</p> <p>Framework Proposal:</p> <p>“Different types of energy storage add another layer of complexity... Additionally, not only do different types of storage enable different applications and operational uses, but where energy storage is located on the grid also increases the complexity of defining benefits and uses.” (p. 16)</p>	<p>Verified</p>

<p>encouraging the development of new energy storage systems that integrate this increase in distributed generation.” (p. 7)</p> <p>“[S]trategically located energy storage can allow for cost effective deferment or replace the need for transmission and distribution infrastructure upgrades, providing greater local reliability and capturing significant benefits for ratepayers, end users, and the environment.” (p. 8)</p>		
<p>Procurement Targets</p> <p>Sierra Club January 31, 2012 Opening Comments on the ALJ’s Ruling Seeking Comments on the Initial Staff Proposal:</p> <p>“Once a valuation framework is created, procurement targets can be set and a roadmap developed. The priorities for these targets should be maximizing the cost-effective use of EES to meet the State energy and environmental policy goals including compliance with AB 32.” (p. 15)</p> <p><u>August 29, 2011 Comments on ALJ Ruling</u></p> <p>“The successful completion of this proceeding—including the adoption of targets for load-serving entities to procure energy storage systems--will eliminate a major barrier to the deployment of energy storage in California.” (p. 2)</p> <p>“Staff states that the outcomes of the analysis will be used to evaluate whether or not to adopt a procurement target or if other policy options are better suited to meet the objectives of AB 2514.” (p. 25)</p>	<p>Decision:</p> <p>“Parties in favor of having the Commission establish procurement targets argue that it would assist in the widespread deployment of energy storage... Sierra Club further notes that these targets do not necessarily need to be based on a certain quantity of energy storage. Rather, it believes other criteria, such as reduced peak load or reduction in certain air pollutants, could be used.” (p. 21) (citing Sierra Club September 16 Comments at 12.)</p> <p>“Staff states that the outcomes of the analysis will be used to evaluate whether or not to adopt a procurement target or if other policy options are better suited to meet the objectives of AB 2514.” (p. 25)</p>	<p>Verified</p>

<p>“Lack of procurement targets and a method to value energy storage are the major impediments to widespread deployment of energy storage systems.” (p. 6)</p> <p>September 16, 2011 Reply Comments to ALJ Ruling</p> <p>“[T]his proceeding will promote energy storage by developing proactive regulatory policies such as assessing the need for procurement targets for energy storage in particular.” (p. 6)</p> <p>“Regulatory incentives, such as procurement targets, can compensate for this market inefficiency by incorporating more accurate price signals in an otherwise undervalued asset.” (p. 10)</p> <p>“[A] procurement target could be based on environmental values such as reducing peak load by a certain percentage to achieve reduction in criteria air pollutants and greenhouse gases.” (p. 12)</p>	<p>Framework Proposal:</p> <p>“The end goal of this proceeding is to determine what procurement targets, if any, should be established for energy storage.” (p. 16)</p>	<p>Verified</p>
<p>Resource Adequacy</p> <p>Sierra Club January 31, 2012 Opening Comments on the ALJ’s Ruling Seeking Comments on the Initial Staff Proposal:</p> <p>“Adoption of an energy storage “end use” framework could be a useful tool for assessing cost-effectiveness. Staff proposes that this framework be used in “cost-effectiveness evaluations and defining Resource Adequacy value.” Sierra Club cautions that this “end-use” framework should not be used as a method to limit an assessment of the broad categories of benefits that specific energy storage devices would provide. Sierra Club agrees with the PIER Report recommendation that the Commission should consider a determination of cost effectiveness under the statute as</p>	<p>Decision:</p> <p>“A large number of parties identified the RA accounting rules as a barrier to more widespread energy storage deployment.” (p. 13)</p> <p>“Parties generally agree that this barrier should be addressed in the Commission’s RA proceeding, but note that there should be coordination with this proceeding.” (p. 14)</p>	<p>Verified</p>

<p>including the value of various societal and environmental benefits. “This is especially important in that none of the studies to date regarding EES has considered these benefits.” (p. 14)</p> <p>August 29, 2011 Comments on ALJ Ruling</p> <p>“All of these features avoid potential use of other grid resources, especially generation capacity. If an energy storage system can provide resource adequacy and other separate attributes that serve the functioning of the electric grid, it may be appropriate to “double count” the stacked values of that system for the specific purpose of determining the economic value of storage.” (p. 4-5)</p> <p>“Counting the value of storage for economic and functional purposes may require a different type of assessment than is ordinarily used for resource adequacy, due to the unique characteristics of storage. These separate attributes should be assigned value in accordance with how they are used by the grid. Resource adequacy and capacity values should thus be addressed in a manner that is specifically appropriate to the multifunctional nature of storage systems when creating a rate design.” (p. 5)</p>	<p>Framework Staff Proposal:</p> <p>“CPUC Staff believes that the creation of a Resource Adequacy value and development of other rules allowing storage providers to participate more effectively in the utilities procurement programs will mitigate many of the identified barriers.” (p. 4)</p> <p>“A large number of parties have identified RA accounting rules as a barrier to broader energy storage deployment (citing in part Sierra Club August 28, 2011 comments at 4; Sierra Club September 16, 2011 comments at 1). In the current RA methodology, no value has been assigned to storage-based services. Additionally, the current process of requiring load-serving entities to purchase generic RA capacity does not account for grid operational characteristics necessary to operate the grid with an expected high penetration of intermittent renewable resources.” (p. 8)</p> <p>“The first important outcome of this rulemaking should be to begin the process of having RA value assigned to energy storage as part of the new RA rulemaking . . .” (p. 8)</p>	<p>Verified</p>
<p>Coordination with LTPP</p> <p>Sierra Club February 21, 2012 Reply Comments on the ALJ’s Ruling Seeking Comments on the Initial Staff Proposal:</p> <p>“[T]his proceeding should take the information developed in the Long-Term Procurement Planning proceeding’s (“LTPP”) renewable integration modeling and analyze it in relation to energy storage. Although the</p>	<p>Decision:</p> <p>“Similarly, Sierra Club proposes that energy storage procurement targets adopted in this proceeding should serve as an input for the LTPP proceeding planning assumptions.” (p. 11)</p>	<p>Verified</p>

proposed decision regarding this modeling has not been issued in LTPP, the settlement that most parties signed requires system need to be further evaluated. In the interim, this proceeding can address the storage related issues that the LTPP proceeding raises such as how to best integrate renewables and how to address regulation down. After that analysis has been considered, the results of the energy storage proceeding should be used to inform the LTPP and any other relevant proceedings.” (p. 4)		
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to the Claimant's?	Yes	Yes
c. Names of other parties (if applicable): Parties filing comments included: Vote Solar Initiative (VoteSolar), California Energy Storage Alliance (CESA), and other storage companies.		Yes
d. Claimant's description of how Claimant coordinated with ORA and other parties to avoid duplication or of how Claimant's participation supplemented, complemented, or contributed to that of another party: Sierra Club brought a unique voice to the proceeding representing environmental and ratepayer interests rather than an industry perspective. As one of two environmental groups that actively participated in Phase 1 of the proceeding, Sierra Club emphasized the how the multiple benefits of energy storage could promote California's clean energy policies and assist in reducing greenhouse gas emissions and other pollutants from conventional generation. Sierra Club also supported ensuring compliance with AB 2514 including an assessment of procurement targets. The IOUs and ORA consistently argued against procurement target. Given the different position that Sierra Club and ORA had with respect to procurement targets, Sierra Club did not coordinate with ORA. Although Sierra Club discussed positions with Vote Solar, the other environmental group involved in the proceeding, Sierra Club filed independent comments. The perspective of both groups was complementary and added to the fullness of the record.		Yes

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

a. Explanation by Claimant of how the cost of Claimant's participation bore a reasonable relationship with benefits realized through participation:	CPUC Verified
<p>Sierra Club California focused its participation on demonstrating the value to ratepayers and the numerous operational and environmental benefits of a comprehensive approach to energy storage systems, including providing incentives through procurement targets and developing a valuation method for energy storage in the current regulatory system. As Phase 1 only identified a Framework, the benefits cannot be quantified, but the Decision identifies many aspects from Sierra Club's contributions that are expected to produce benefits to ratepayers and the environment that far exceed the cost of Sierra Club California's participation.</p>	Verified
<p>b. Reasonableness of Hours Claimed.</p> <p>Sierra Club California participated actively in all aspects of Phase 1 of this proceeding by attending workshops and commenting on the ALJ Ruling requesting initial comment, the ALJ Ruling requesting comment on the Framework proposal, and the Proposed Decision.</p> <p>Sierra Club California is claiming a reasonable amount of hours for the work of a two attorneys who for the most part worked on separate aspects of the proceeding. The limited overlap in the work involved internal review of filings. Sierra Club worked with volunteers who had experience and expertise related to energy storage. Sierra Club is not claiming any fees for these hours. Additionally, in the exercise of reasonable billing judgment, the Club excised hours that appeared excessive and to eliminate redundancy between billers. Also Sierra Club is not claiming 13.5 hours billed by Earthjustice's law clerks.</p>	Verified
<p>c. Allocation of Hours by Issue</p> <p>A. Initial workshop/prehearing conference/motion for party status/ review of scoping ruling/coordination with other parties</p> <p>B. NOI and Request for Compensation</p> <p>C. June 28 workshop, related opening comment and coordination with clients on same</p> <p>D. Reply Comment on workshop topics</p> <p>E. Comments on 12/14/11 ALJ Order and Staff Report</p> <p>F. Reply Comments on 12/14/11 Order</p> <p>G. Comment on Phase 1 Proposed Decision</p>	Verified

H. Reply Comment on Phase 1 Proposed Decision¹

Based on the number of hours recorded and included in the attached timesheets, the allocation by activity code is approximately:

Category %

A 7.46%
 B 6.09%
 C 19.83%
 D 16.18%
 E 23.44%
 F 14.86%
 G 9.31%
 H 2.83%

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate	Total	Hours	Rate	Total
William Rostov	2011	70.4	\$360	See Comment 1, below	\$25,344.00	67.35	\$345 ²	\$23,235.75
William Rostov	2012	97.7	\$380	See Comment 1, below	\$37,126.00	97.7	\$360	\$35,172.00
Andy Katz	2011	22.5	\$190	D.12-05-032	\$4,275.00	22.5	\$190	\$4,275.00
Andy Katz	2012	2.1	\$200	See Comment 2, below	\$420	2.1	\$195	\$409.50
	Subtotal:				\$67,165.00	Subtotal:		\$63,092.25
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate	Total	Hours	Rate	Total
William Rostov	2011	2.0	\$180	Half of 2011 Rate, see Comment 1	\$360	2.0	\$172.50	\$345.00
William Rostov	2012	3.0	\$190	Half of 2012 Rate, see Comment 1	\$570	3.0	\$180	\$540.00
Andy Katz	2011	1.5	\$95	Half of 2011 rate, see Comment 2	\$142.50	1.5	\$95	\$142.50
Andy Katz	2012	6.0	\$100	Half of 2012 rate, see Comment 2	\$600	6.0	\$97.50	\$585.00

¹ Sierra Club allocated time by task because all the issues described in this request were addressed in each stage of Phase 1.

² This hourly rate was recently adopted in D.13-10-068.

	Subtotal:	\$1,672.50	Subtotal:	\$1,612.50
TOTAL REQUEST :		\$68,837.50	TOTAL AWARD :	\$64,704.75
<p>* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants, and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>** Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate (the same applies to the travel time).</p>				
Attorney	Date Admitted to CA BAR³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation	
Andy Katz	December 1, 2009	264941	No	
William Rostov	December 3, 1996	184528	No	

C. Sierra Club California's Comments and Attachments:

Attachment or Comment #	Description/Comment
Comment 1	<p>Hourly Rates of William Rostov</p> <p>William Rostov is 1996 law school graduate and Staff Attorney in the California Regional Office of Earthjustice, a non-profit public interest law firm dedicated to protecting the magnificent places, natural resources, and wildlife of this earth, and to defending the right of all people to a healthy environment. Earthjustice is the largest non-profit, environmental law firm in the United States; it recruits and hires top environmental lawyers. Earthjustice received no compensation for its representation and will only receive compensation for its services based on the award of intervenor compensation.</p> <p>Rostov is an experienced litigator in both state and federal court, and he also has extensive administrative law experience. Since joining Earthjustice in 2008, Rostov has focused on energy and global warming issues. In addition to participating in the 2010 LTPP, Rostov represents Sierra Club in the successor LTPP Proceeding as well as in the energy storage proceeding. Rostov has a long history of working on energy issues and power plant siting decisions before California Energy Commission. Rostov has also worked on a variety of matters related to pollution from industrial facilities including power plants. (See attached resume describing Rostov's experience, Attachment 2.)</p> <p>Rostov falls into the top range of experience 13+ years of experience. Rostov has not yet had rates set in a Commission decision. However, Rostov did apply for compensation in the 2010 Order Instituting Rulemaking to Integrate and Refine Procurement Policies and</p>

³ This information may be obtained at: <http://www.calbar.ca.gov/>.

	<p>Consider Long-Term Procurement Plans (“2010 LTPP”) on June 18, 2012. A decision on that request has not been issued. Based on review of the Commission’s compensation decisions, Sierra Club requested the following rates: \$345 for 2010; \$360 for 2011; and \$380 for 2012 in that case. Sierra Club requests the same here.</p> <p>The requested rates fit within the rate range for attorneys with similar experience. For example, in the 2010 LTPP request for compensation, Sierra Club set Rostov’s initial 2010 rate at \$345 which is the hourly rate assigned to Lisa Belenky, staff attorney for the Center for Biological Diversity. See D.11-10-041, at 7-8. Belenky is an environmental law practitioner who participated in her first Commission proceeding and did not have an awarded rate, <i>id.</i>; she was admitted to the bar in 1999, three years after Rostov. <i>Id.</i> Although Rostov is experienced environmental attorney who, <i>inter alia</i>, has considerable experience working on issues related to power plants and energy issues, the 2010 LTPP was the first Public Utilities Commission Proceeding for Rostov. Correlating the hourly rate with Belenky’s rate, who similarly received a rate for her first participation before the Commission, supports the reasonableness of the requested 2010 hourly rate of \$345.⁴ For 2011, Rostov requested the 5% step increase pursuant to D.08-04-110 for an hourly rate of \$360. Rostov requested the second 5% step increase for 2012 for a rate of \$380 per hour. Sierra Club is requesting the same rates in this case even though Rostov had gained significant Commission experience by participation the 2010 LTPP prior to entering this proceeding.</p> <p>Not only is this a reasonable rate in relation to other environmental attorneys practicing before the Commission, it is a substantial discount on the hourly rate that Rostov has received in court proceedings. For example, two separate Northern District of California federal courts have awarded Rostov an hourly rate of \$575. In <i>Geertson Seed Farms v. Johanns</i>, the court awarded fees for appellate work done by Rostov in 2007 and 2008 at the hourly rate of \$575. (See Attachment 3, Order Awarding Attorneys’ Fees, at 17.) The court in <i>Center for Food Safety v. Vilsack</i> applied the same \$575 rate for Rostov’s 2007 and 2008 work in that matter.⁵ (See Attachment 4, Report and Recommendation Re: Plaintiffs’ Motion for Attorneys’ Fees, at 15 and Order Adopting Report and Recommendations.) Rostov also settled fees in a significant CEQA case in which he received the same rate of \$575 per hour.</p>
Comment 2	Andy Katz was awarded an hourly rate of \$190 for 2011 work in D.12-05-032, at 14. This rate includes Katz’s first step increase. (<i>Id.</i>) Sierra Club requests Katz’s second 5% step increase for his 2012 rate. Rounding to this nearest five dollar increment, this equals a rate of \$200 per hour.
Attachment 1	Certificate of Service
Attachment 2	William Rostov Resume
Attachment 3	<i>Geertson Seed Farms v. Johanns</i> : Order Awarding Attorneys’ Fees
Attachment 4	<i>Center for Food Safety v. Vilsack</i> : Report and Recommendation re: Attorneys’ Fees; Order Adopting Report and Recommendations
Attachment 5	Timesheets

⁴ This request is slightly less than two other attorneys who graduated law school after Rostov. Marcel Hawiger, a 1998 law school graduate, received an hourly rate of \$350 in 2010. See D.11-09-014. Alexis Wodtke, a 1997 law school graduate, received the same rate of \$350 per hour in 2010. See D.10-08-017.

⁵ This decision has been appealed, *Center for Food Safety, et al. v. Vilsack*, No. 12-15323 (9th Cir.).

D. CPUC Disallowances & Adjustments:

#	Reason
1. Disallowance for Clerical/Administrative Tasks.	Rostov's claim was reduced by 3.05 hours for 2011 for routine administrative tasks such as reviewing emails and the Commission's practices and procedures.
2. Adoption of Katz's hourly rate(s).	Per D.08-04-010, an intervenor is allowed to request an annual 5% step increase twice within each level of experience. Katz's contribution to this proceeding was insufficient to justify a step increase at this time. However, Katz is eligible for the 2.2% COLA adjustment authorized in Resolution ALJ-281 which, after rounding, increases his 2012 hourly.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6)) (Y/N)?	Yes

FINDINGS OF FACT

1. Sierra Club California has made a substantial contribution to D.12-08-016.
2. The claimed fees and costs are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable compensation is \$64,704.75.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Sierra Club California is awarded \$64,704.75.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Sierra Club California their respective shares of the award, based on their California-jurisdiction electric revenues for the 2011 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning December 19, 2012, the 75th day after the filing of Sierra Club California's request, and continuing until full payment is made.

3. The comment period for today's decision was waived.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D1208016	
Proceeding(s):	R1012007	
Author:	ALJ Yip-Kikugawa	
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company.	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier	Reason Change/Disallowance
Sierra Club California	10/5/12	\$68,837.50	\$64,704.75	No	Disallowance for clerical/administrative tasks; changes in hourly rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
William	Rostov	Attorney	Sierra Club	\$360	2011	\$345
William	Rostov	Attorney	Sierra Club	\$380	2012	\$360
Andy	Katz	Attorney	Sierra Club	\$190	2011	\$190
Andy	Katz	Attorney	Sierra Club	\$200	2012	\$195

(END OF APPENDIX)